

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

HERNAN REYES,

Plaintiff,

vs.

JAMES BACA, et al.,

Defendants.

3:07-CV-109-ECR (RAM)

REPORT AND RECOMMENDATION
OF U.S. MAGISTRATE JUDGE

This Report and Recommendation is made to the Honorable Edward C. Reed, Jr., Senior United States District Judge. The action was referred to the undersigned Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and the Local Rules of Practice, LR IB 1-4.

On November 7, 2007, Defendants filed a Motion to Dismiss for Failure to Prosecute, or in the Alternative, Motion to Suspend Scheduling Order (Doc. #20). On November 8, 2007, the court issued an order advising the Plaintiff of the requirements for opposing the Motion (Doc. #21).

The Clerk sent a copy of the court's order to Plaintiff at the last address he provided to the court: Lovelock Correctional Center, Post Office Box 359, Lovelock, Nevada 89419. That mailing was returned to the court, with a notation on the envelope stating "Paroled" (Doc. #22).

It appears that the Plaintiff has left the prison system without informing the court of his change of address. LSR 2-2 provides that failure to notify the court of a change of address "may result in dismissal of the action with prejudice."

Under these circumstances the court should dismiss this action without prejudice.

///

///

RECOMMENDATION

IT IS HEREBY RECOMMENDED that the District Court enter an order dismissing this action without prejudice.

The parties should be aware of the following:

1. That they may file, pursuant to 28 U.S.C. § 636(b)(1)(C) and Rule IB 3-2 of the Local Rules of Practice, specific written objections to this Report and Recommendation within ten (10) days of receipt. These objections should be titled "Objections to Magistrate Judge's Report and Recommendation" and should be accompanied by points and authorities for consideration by the District Court.

2. That this Report and Recommendation is not an appealable order and that any notice of appeal pursuant to Rule 4(a)(1), Fed. R. Civ. P., should not be filed until entry of the District Court's judgment.

DATED: November 14, 2007.



UNITED STATES MAGISTRATE JUDGE